

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

JOANNE HART and SANDRA BUENO,  
on behalf of themselves and all others  
similarly situated,

Plaintiffs,

v.

BHH, LLC d/b/a Bell + Howell and VAN  
HAUSER LLC

Defendants.

Civil Action No. 1:15-CV-04804-WHP

**REPLY DECLARATION OF YITZCHAK KOPEL IN FURTHER SUPPORT OF  
PLAINTIFFS' MOTIONS TO PRECLUDE THE EXPERT TESTIMONIES OF DR.  
PAUL BORTH AND DR. PHILIP WHITFORD AND THE REBUTTAL EXPERT  
TESTIMONY OF STEFAN BOEDEKER**

I, Yitzchak Kopel, declare as follows:

1. I am an attorney at law licensed to practice in the State of New York. I am a member of the bar of this Court, and I am an attorney at Bursor & Fisher, P.A., counsel of record for Plaintiffs Joanne Hart and Sandra Bueno ("Plaintiffs") and the certified classes. I have personal knowledge of the facts set forth in this declaration, and, if called as a witness, could and would competently testify thereto under oath.

2. Attached hereto as **Exhibit 1**<sup>1</sup> are excerpts from the January 16, 2018 deposition transcript of Dr. Paul Borth.

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<sup>1</sup> Plaintiffs' preserve original exhibit numbers from the 3/9/18 Kopel Decl. ISO Plaintiffs' Motion to Preclude the Expert Testimonies of Dr. Paul Borth and Dr. Philip Whitford and the Rebuttal Expert Testimony of Stefan Boedeker.

3. Attached hereto as **Exhibit 2** are excerpts from the January 12, 2018 deposition transcript of Dr. Philip Whitford.

4. Attached hereto as **Exhibit 3** is a true and correct copy of the October 31, 2017 expert report of Dr. Paul Borth.

5. Attached hereto as **Exhibit 8** is a true and correct copy of a published study entitled "Acoustical Characterization and Efficacy Evaluation of Ultrasonic Pest Control Devices Marketed for Control of German Cockroaches (Orthoptera: Blattellidae)" by R.E. Gold, T.N. Decker, and A.D. Vance (Gold (1984)).

6. Attached hereto as **Exhibit 9** is a true and correct copy of the October 31, 2017 expert report of Dr. Michael F. Potter.

7. Attached hereto as **Exhibit 10** is an excerpt from the January 26, 2017 deposition transcript of Dr. Paul Borth in *Galoski v. Applica Consumer Products, Inc.*, Case No. 1:14-cv-0053 (N.D. Ohio).

8. Attached hereto as **Exhibit 14** is a true and correct copy of a study by Dr. Philip Whitford entitled "Transonic Pro and Yardgard Sonic/Ultrasonic Units Reduce Mouse Damage in Home and Garden."

9. Attached hereto as **Exhibit 16** is a true and correct copy of a document describing the "Operation and Use" of "Transonic Pro Heavy Duty Pest Repeller."

10. Attached hereto as **Exhibit 21** are excerpts from the January 26, 2018 deposition transcript of Stefan Boedeker.

11. Attached hereto as **Exhibit 26** is a true and correct copy of the December 22, 2017 expert report of Stefan Boedeker.

12. Attached hereto as **Exhibit 27**<sup>2</sup> is a true and correct copy of a document titled “SGS Test Report” bearing bates number BHH,LLC 002959.

13. I declare under penalty of perjury under the laws of the United States and the State of New York that the foregoing is true and correct. Executed on April 23, 2018 at New York, New York.



Yitzchak Kopel

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<sup>2</sup> Exhibit 27 was not previously attached to the 3/9/18 Kopel Decl.